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COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 39th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 23 February 1995, at 3 p.m.

Chairman: Mr. PALLAIS (Nicaragua)
(Vice-Chairman)

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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (continued)

In the absence of Mr. Bin Hitam (Malaysia), Mr. Pallais (Nicaragua),
Vice-Chairman, took the Chair.

The meeting was called to order at 3.15 p.m.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
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- (a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;
- (b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;
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- (d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS.

(agenda item 11) (continued) (E/CN.4/1995/5 and Add.1, 42-45, 46 and Add.1, 48, 49, 50 and Add.1-3, 51, 107, 113 and 147; E/CN.4/1995/NGO/5, 8, 22 and 28)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 21) (continued) (E/CN.4/1995/85, 87 and Add.1, 88, 89 and Add.1 and 90; E/CN.4/1995/NGO/10; A/49/635 and Add.1)

1. Ms. de BURLET (Human Rights Watch) said that her organization attached great importance to accountability for human rights abuses, and in particular for war crimes, crimes against humanity and genocide. While welcoming the creation by the United Nations of tribunals to judge crimes committed in the former Yugoslavia and Rwanda, it considered that failure to ensure their smooth working would send the wrong message to war criminals throughout the world and, by signalling that strong words were not followed by deeds, would undermine the authority of the United Nations.
2. In Rwanda, there was a considerable danger of the genocide resuming under the old leadership. United Nations plans to disarm the Rwandese controlling the camps and to separate military and militia forces from the refugee population and bring them to justice had been thwarted by a refusal of Governments to commit the necessary resources. Prompt prosecution of those responsible for the genocide was essential. The Commission should take the lead in urging all Member States to support the work of the appropriate International Tribunal and to arrest, and hold for trial, all those former Rwandese military and civilian officials and others against whom a prima facie case of involvement in genocide could be made.
3. Despite the continuing human rights abuses in the former Yugoslavia, international negotiators had been more interested in accommodating than in punishing the Serb forces. The proposed peace plan drafted by the Contact Group did not properly address human rights abuses in any of the territories controlled by the respective factions. The failure of international

negotiators to press Bosnian Serb forces to stop their policy of ethnic cleansing was a de facto acceptance of genocide and a recipe for further suffering. Until the persons responsible for such crimes were brought to justice, the Bosnian Serb leadership must be held accountable by the international community. Amnesties should not be granted to alleged war criminals in exchange for their acceptance of a peace plan. Sanctions against any State that refused to cooperate with the appropriate International Tribunal should be maintained.

4. She urged the Commission to strengthen logistical and professional support for the mandates of the United Nations special rapporteurs, working groups and independent experts. Her organization was concerned that the voice of the High Commissioner for Human Rights had rarely been heard on the most pressing human rights problems of the past year, and she encouraged him to adopt a more forceful and public profile and to support the investigative work of the United Nations special rapporteurs, in particular by bringing pressure to bear when they were not allowed to undertake visits to countries to which the High Commissioner had himself been invited.

5. Ms. FARHI (International Council of Jewish Women), speaking also on behalf of 21 other non-governmental organizations (NGOs)*, said that, while Governments increasingly recognized the irreplaceable role of the NGOs in advancing United Nations human rights work, the NGOs were always the first targeted in discussions on rationalizing or reforming the methods of work of the Commission or of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Certain members of the Commission and the Sub-Commission had proposed that NGOs should present joint statements on human rights violations and had suggested even more radical measures. Yet the informal open-ended working group on the organization of the work of the Commission had established that the number of statements by NGOs in the Commission had fallen to 269 at the fiftieth session from 293 at the forty-ninth (E/CN.4/WG.12/2).

6. The NGOs were not the only ones who could be accused of repetitiveness. Wherever possible, they had made a serious effort to present joint statements, but that was not always possible. For example, some representatives of NGOs did not arrive in Geneva until the day on which a given subject was discussed. They had been sent to make a statement based on their own experience and field work, their text having received the prior approval of their members. It was difficult to see how it could be argued that they should no longer give their own unique testimony.

7. An NGO spoke on behalf of a coalition of its members in various parts of the world, sometimes representing millions of individuals from different cultures. Their statements resulted from careful studies and thorough discussions and could hardly be called frivolous or arbitrary.

8. The NGOs understood the organizational difficulties facing the Commission and were prepared to participate in any effort to rationalize its work and its

* The list of non-governmental organizations concerned appears as an annex to this summary record.

agenda. She reminded the Commission, however, of the major role played by NGOs in the drafting of a number of international human rights instruments and the vital importance of the information that they provided on human rights violations, which might otherwise go unnoticed.

9. If the United Nations was truly to become a universal, pluralist and democratic institution, it should not restrict the activities of the NGOs, whose work was difficult enough as it was. To take the simple example of the arrangements for their presence in the Commission's conference hall, at the current session 150 NGOs had to make do with 12 seats and could deliver their statements from only three of them.

10. Ms. GARCIA (Latin American Federation of Associations of Relatives of Disappeared Detainees (FEDEFAM)) said she regretted that, two years after the establishment of the Commission on the Truth in El Salvador, some of its recommendations had yet to be implemented; that the former President Cristiani had declared an amnesty one week after the publication of the report of the Commission; and that a number of provisions of the Peace Agreements had not yet been put into effect.

11. The recent integration into the National Civil Police (PNC) of demobilized servicemen, together with the imminent withdrawal of the United Nations Observer Mission in El Salvador (ONUSAL), gave cause for serious concern about El Salvador's immediate future. It was imperative that ONUSAL should continue its work. Her organization thus urged the Commission to continue monitoring the situation of human rights in El Salvador and to adopt the recommendations contained in the report of the Independent Expert (E/CN.4/1995/88, paras. 92-122).

12. In Guatemala, members of the police and the military were still committing human rights violations, as illustrated by the armed attack on Senaida Cana Chonay, a member of the Mutual Support Group (GAM) on 6 February 1995 and the threats of which she and her family had been the target, the murder of the Belgian priest Alfonso Stelsen in December 1994 and the murder of the Guatemalan reporter Alberto Antoniotti in January 1995. Unfortunately, it had not been possible in practice to dismantle the military control apparatus.

13. As long as the judiciary in Guatemala was not independent and could not ensure protection of human rights, there could be no administration of justice, and those responsible for human rights violations would continue to go unpunished. The intimidation and harassment to which judges were exposed who tried cases involving members of the military, the police or the Civilian Self-Defence Patrols (PACs) showed the military's continuing powerful presence. Virtually all cases of disappearances, torture and arbitrary executions continued to go unpunished.

14. Her organization regarded as a positive step the signing of the Comprehensive Agreement on Human Rights and welcomed the establishment of the United Nations Human Rights Verification Mission in Guatemala (MINUGUA). It urged the Commission to ensure that the Government of Guatemala produced tangible results in safeguarding basic human rights and to call upon the Government of Guatemala to honour the promise it had made to the Working Group

on Enforced or Involuntary Disappearances by including enforced disappearance in the country's constitution and legislation as a crime against humanity.

15. Mr. CUNNIAH (International Confederation of Free Trade Unions (ICFTU)) said that his organization was deeply concerned at the increasing level of violence against women at home, at work and in the community. It was especially worried by certain forms of violence against women workers, such as sexual harassment, intimidation at work and the violence directed at women migrant workers.

16. Women were at risk in many sectors of the economy and were often the victims of aggression and physical and verbal abuse. In low-paying and low-status jobs, they were particularly vulnerable to violence at work, including sexual harassment. For example, in the cleaning sector, women were exposed to abuse or harassment by both supervisors and clients. In the developing countries, women generally found employment in small enterprises, sweat-shops or home-based units, where a country's labour legislation did not apply or was difficult to enforce, and were easy targets for exploitation and abuse.

17. The domestic service sector had the worst working conditions of all. There had been many cases of discrimination against domestic servants - who were usually young women - and cases of sexual abuse by employers or their sons.

18. Women migrant workers were particularly at risk. Many went through private recruitment agencies to find employment abroad and, in the process, were exploited by unscrupulous agents demanding exorbitant fees. Once abroad, they were frequently forced to live and work in terrible conditions. Some of the worst experiences had been repeatedly reported in the Middle East, where women had fled to their embassies to seek protection from their employers.

19. It was high time that Governments realized the seriousness of those problems and took appropriate action by enacting legislation on sexual harassment, domestic violence and sexual violence. They must also review how women victims were treated by the police and the judiciary, and take steps to improve the collection of data on violence against women. Employers were equally responsible for protecting their employees from violence and sexual harassment. Proper procedures must be established for the reporting of incidents at work similar to those in respect of health and safety matters and accidents. Companies must have an anti-harassment policy committing the management to maintaining a harassment-free workplace.

20. In many countries, women were caught in a web of social humiliation: discrimination, economic dependence, family insecurity, repression, insults and sexual abuse. Such was the situation of women in the Islamic Republic of Iran.

21. His organization supported the conclusions and recommendations contained in the preliminary report of the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/1995/42), particularly the call for all Governments that had not yet done so to ratify, without reservations, the

Convention on the Elimination of All Forms of Discrimination Against Women. The Commission should also urge Governments to ratify ILO Conventions No. 111 on discrimination and No. 100 on equal remuneration.

22. Mr. CIURLIZZA (Andean Commission of Jurists) said that advisory services and technical assistance were intended to help Governments strengthen national institutions and bring them into line with international human rights standards. Nevertheless, in some cases, Governments had misused those services as a means of avoiding international monitoring and no real progress had been achieved. The system of advisory services thus needed to be thoroughly reviewed.

23. Colombia had been benefiting from UNDP advisory services since 1988. In 1993, the Secretary-General had reported that those programmes had been oriented towards the promotion rather than the protection of human rights and it had been recommended by various United Nations mechanisms that the Government of Colombia should take firm measures to deal with public officials accused of serious violations of human rights and should provide better protection for individuals and organizations working in the human rights field.

24. The advisory services provided to Colombia had not had any real impact in terms of decreasing violence and human rights violations. Any further services must take into consideration the progress made in complying with the various recommendations.

25. The Government of Peru had requested assistance from the Centre for Human Rights for a programme which would include training public officials in report and document preparation and strengthening the institutional bases for democracy and the rule of law. Priority would be given to reinforcing the three main elements needed to provide better protection for human rights: the judiciary, monitoring bodies and the combat against corruption. Another goal was to set up a broad and democratic programme of human rights training for members of the army and the national police. Non-governmental organizations would be playing an active role in the entire programme.

26. Bolivia had requested support for the elaboration of a national plan of action for the promotion and protection of human rights, which would include the participation of non-governmental organizations, while Ecuador had been carrying out a pilot project to provide human rights training for military personnel.

27. In that connection, his organization suggested that, in view of the shared characteristics of the Andean countries, programmes and projects developed for them by the Centre for Human Rights should have a regional focus and should emphasize the exchange of experience. All programmes should be elaborated with a view towards achieving the overriding goal of the effective promotion and protection of human rights.

28. A critical evaluation of advisory services in the field of human rights should be based on three main questions, namely, whether the provision of advisory services meant that a country was no longer subject to international

monitoring, what special contribution the advisory services would make to the improvement of human rights and to what extent the Government consent requirement was limiting the programmes.

29. In principle, the existence of advisory services should not serve as a replacement for international control, particularly by special rapporteurs and working groups. Nevertheless, some Governments had sought to substitute the first for the second. The Commission on Human Rights had even reinforced that distorted image by exempting countries using the advisory services from examination under certain of its agenda items.

30. Although, in theory, technical assistance should always lead to a greater respect for human rights, yet, without an appropriate ideological and ethical framework, such assistance might end up by legitimizing situations which did not advance that cause. It was thus necessary to monitor continuously the impact of technical assistance on any given situation.

31. The role of the Centre for Human Rights could be substantially strengthened by increased cooperation with NGOs, whose work could appropriately complement advisory services and technical assistance programmes. At the same time, the required consent of States might stand in the way of such cooperation. It must be made clear, therefore, that NGOs were not acting in opposition to Governments but as an auxiliary to them.

32. The Commission on Human Rights had reiterated on numerous occasions that advisory services were designed to facilitate the implementation of international standards for the protection of human rights. Some Governments had failed to avail themselves of those services fearing, perhaps, that to do so would open the way to interference in their internal affairs. However that might be, the scarce resources available for all advisory services and technical assistance programmes must be used in the most effective manner possible.

33. Ms. SUK (Liberation) said that, during the period of Japanese colonial rule in Korea, Koreans had been forcibly displaced and subjected to long-term detainment, sexual exploitation and other forms of slavery, brutal actions that unquestionably constituted crimes against humanity. The Japanese Government had finally acknowledged its actions, but had never taken steps to investigate the issue further. It had ignored its moral responsibility, despite reminders from international and other organizations.

34. The Japanese Government lacked a sense of guilt with respect to the invasions carried out by Japan in the past. Moreover, it maintained that the sexual slavery, forced labour and forced displacement that had taken place under colonial rule had been lawful because of the protectorate treaty signed in 1905 between Japan and Korea. However, the Korean emperor and his ministers had signed the treaty under duress, and many eminent jurists had declared the treaty to be null and void for that reason.

35. The surviving victims of colonial rule and forced labour and their families were still victims of discrimination in Japan. The right to education of Korean nationals in Japan had still not been confirmed. Korean children had been assaulted by Japanese citizens.

36. Her organization requested the Commission on Human Rights, therefore, to authorize the Special Rapporteur on violence against women to conduct an immediate investigation both in Japan and in all the victimized countries. It urged the Special Rapporteur to extend her investigation to the origin and causes of human rights abuses and to make constructive policy recommendations.

37. The Japanese Government had announced that the issue of "comfort women" had been resolved in accordance with bilateral and multilateral treaties. That was not, in fact, so, because there was no treaty normalizing the relations between Japan and the Democratic People's Republic of Korea.

38. Mr. TOTSUKA (International Fellowship of Reconciliation) said that his organization, which had been working closely with the Japanese Fellowship of Reconciliation and the Foundation of Japanese Honorary Debts, had on several previous occasions drawn the attention of the Commission to the issue of sexual enslavement perpetrated by the Japanese Imperial Forces during the Second World War. In that connection, it welcomed the preliminary report of the Special Rapporteur on violence against women (E/CN.4/1995/42) and in particular the section dealing with the issue of "comfort women".

39. The Prime Minister of Japan had apologized to the victims of sexual slavery but the question of compensation had still to be resolved and the act had still to be recognized as a crime under international humanitarian law.

40. A precedent for the punishment of perpetrators of the crime of military sexual slavery had been set by a Dutch war crimes tribunal in 1948. Perpetrators of similar crimes in Japan were, however, benefiting from de facto impunity. There were also legal precedents relating to the duty of reparation to victims on the grounds of non-punishment.

41. Despite the protests from surviving victims and other groups in Korea, the Philippines and Japan, the Japanese Government had launched in September 1994 the Murayama Plan under which a Government-funded foundation would be established to set up development assistance projects. Any donations by the general public to the fund would then be used to compensate the victims of sexual slavery. According to the Japanese Foreign Ministry, no compensation should be paid directly to those victims by the Government as to do so would imply an admission of legal responsibility.

42. Thus, the Japanese Government still did not admit that its treatment of the "comfort women" constituted a crime under international law. It had failed to respond to the legal arguments of non-governmental organizations, stating openly that the views of such organizations did not merit serious consideration.

43. Apart from those who had collaborated with the Japanese Imperial Forces in the matter of "comfort women", Japanese nationals had no moral or financial responsibility for those crimes. They were, however morally and politically responsible for allowing their Government to neglect its responsibilities in that matter.

44. In January 1995, the Government of Japan had formally rejected the victims's demands for international arbitration, as recommended by the

Working Group on Contemporary Forms of Slavery. It was most regrettable that the Government had refused an opportunity to resolve the matter in a reasonable, fair and expeditious manner.

45. The Korean Bar Association and the Japan Federation of Bar Associations had recently adopted the following opinions: the crimes committed by Japan were in violation of international law; it was the duty of Japan to punish the perpetrators of those crimes; and Japan had an obligation to provide reparation to the victims.

46. He urged the Commission to request the Special Rapporteur on violence against women to visit Japan and prepare a report on the matter of "comfort women". In examining that issue, the Special Rapporteur should collaborate with the rapporteurs, experts and working groups in related fields.

47. Ms. SHIN (Commission of the Churches on International Affairs of the World Council of Churches) said that she welcomed the preliminary report of the Special Rapporteur on violence against women (E/CN.4/1995/42). Her organization had been concerned for some time about the issue of violence against women, particularly in times of war. An ecumenical fact-finding team had undertaken an investigation of violence against women in Bosnia, on the basis of which her organization had supported the establishment of an international tribunal to deal with the question of human rights violations in the former Yugoslavia.

48. The Vienna Declaration and Programme of Action defined violations of human rights of women in situations of armed conflict as violations of the fundamental principles of international human rights and humanitarian law and called for effective responses to such situations. The Jakarta Declaration and Programme of Action for Asia and the Pacific, adopted in June 1994, called upon Governments to punish the perpetrators of military sexual slavery.

49. Her organization had appealed for full disclosure of the facts regarding the matter of "comfort women"; those guilty must be brought to justice and the victims must receive just and adequate compensation. Women around the world, and particularly in Asia, were demanding justice and reparations for the victims of military sexual slavery. At the East Asian Women's Forum, held in October 1994 in Japan, the participants had launched a campaign against Japan's application to become a permanent member of the Security Council, arguing that until it had fulfilled its legal obligations to war victims in Asia, it could not claim international political leadership.

50. Modified versions of the system of military sexual slavery were still in existence in many parts of the world and included the economic exploitation of women in the sex tourism industry and trafficking in women. If the issue of "comfort women" had been properly resolved under international law, the massive and organized rapes against women currently being perpetrated or condoned by various States might have been avoided.

51. Resolution of the matter of "comfort women" would take on great symbolic meaning in 1995, the fiftieth anniversary of the end of the Second World War and of the establishment of the United Nations. Surviving "comfort women" and organizations working on the issue of military sexual slavery, including her

own, were strongly opposed to the Murayama Plan proposed by the Government of Japan: the civilian fund to compensate victims would serve only to deny the responsibility of the State. In that connection, she mentioned that the International Commission of Jurists had recommended that an international forum should be set up and an interim payment of US\$ 40,000 should be paid to each victim until the matter was fully resolved.

52. Mr. NEWMAN (Human Rights Advocates) said that the basic question to be addressed was how gross violations of human rights, which occurred often and in many countries, could be handled under the Commission's thematic approach.

53. Many groups of displaced persons were being overlooked or forgotten by the public and the media because they were small in numbers or the displacement had occurred too far in the past to be topical. International efforts with regard to displaced people should be focused on protection rather than on mere assistance and should concentrate on violations of existing law rather than on the failure to observe principles.

54. The situation of the Kashmiri Hindus was a case in point. The Government of India might justify its failure to protect that group on the grounds of the requirements of public order and the general welfare, as provided for under article 29 of the Universal Declaration of Human Rights, but India had long been a party to the International Covenant on Civil and Political Rights and article 7 of the Covenant, from which no derogation was permitted for any reason whatsoever, provided that no one should be subjected to cruel, inhuman or degrading treatment. Under articles 23 and 24, the family was entitled to protection by the State and children were entitled to protection as required by their status as minors. Those protections surely included sanitation, shelter, food and educational opportunities. While derogation from the provisions of articles 23 and 24 was permitted in times of public emergency, it was difficult to imagine that such a rationale could be used by States to justify the ill-treatment of internally displaced persons.

55. The Representative of the Secretary-General on internally displaced persons had recently suggested that a newly elaborated body of principles might help fill legal gaps and restate obligations within the framework of existing norms. Such work must not, however, provide an excuse for Governments to ignore their obligations under existing laws. Unfortunately, in dealing with people in many vulnerable groups, Governments had agreed to palliatives which had critically minimized the objectives contained in the various international treaties.

56. Mr. TEITELBAUM (American Association of Jurists) said that the unsatisfactory results achieved by the United Nations in its human rights activities were due to the fact that the geopolitical and geo-economic interests of the major Powers had prevailed over the standards and principles enshrined in the basic international human rights instruments.

57. Reviewing a number of recent critical situations, he noted that, in Somalia, the Special Representative of the Secretary-General, who had been achieving results through dialogue, had been dismissed and the military option

pursued with the results that were known, including grave violations of the human rights of the Somali people committed under the flag of the United Nations.

58. In Haiti, the United Nations and the United States had put intense pressure on President Aristide, while guaranteeing impunity and a comfortable exile for those responsible for the martyrdom of the Haitian people.

59. In Rwanda, there was still no explanation for the passivity of the blue helmets during the early stages of the massacre or for the order to the Belgian blue helmets - who had been subsequently massacred - to give up their weapons. It was also difficult to understand why almost the entire contingent of blue helmets had been withdrawn when their presence might have prevented the assassination of the Prime Minister, the Chief Justice of the Supreme Court and other national figures.

60. Members of the former genocidal Rwandese regime were currently in the refugee camps in neighbouring countries plotting their counter-offensive to the general indifference of the international community. In the meantime, the United Nations was providing no assistance in creating the judicial structures required to bring to trial the thousands of accused persons who were imprisoned inside Rwanda in deplorable conditions. The international criminal tribunals which the Security Council had established for Rwanda and the former Yugoslavia were of doubtful legitimacy, since they were ad hoc and temporary and were answerable to the Security Council. That situation lent credence to the view that technical and financial assistance was provided for the administration of justice in a selective and discriminatory manner.

61. A former senior official of the United Nations Mission for the Referendum in Western Sahara (MINURSO) had recently charged that the United Nations, which was responsible for monitoring the proper conduct of the referendum in Western Sahara, was a mere smoke-screen for the fraud being perpetrated by the Kingdom of Morocco. Meanwhile, in Angola, the United Nations was incapable of obliging UNITA to respect the results of the elections in that country and, in Chechnya, the proponents of the right of interference remained silent or claimed that it was an internal problem of the Russian Federation, while the Chechen people and their capital were being brutally destroyed.

62. To complete the picture, the Secretary-General had recently called for the incorporation into the United Nations system of the transnational corporations, in other words, for the international community to be governed not by the Universal Declaration of Human Rights, but by the principle of maximizing the profits of the large international monopolies.

63. The destruction of the United Nations system as an instrument for the promotion of coexistence, dialogue and human rights was being carried out in various ways. On 15 February 1995, \$1,300 million in contributions to the regular budget of the Organization and \$2,100 million for peace-keeping operations were outstanding. Moreover, contrary to the provision of the Charter that the assessed contribution of each country should be determined by the General Assembly and not by that country's parliament, the House of Representatives of the United States had recently passed legislation reducing that country's contribution to the United Nations.

64. The lack of resources could be seen in the Commission itself, where certain documents were not translated at all or were translated very late because fewer and fewer staff were being recruited. At the same time, more and more persons paid for by individual States and not by the United Nations were joining the staff of the Centre for Human Rights, in violation of the principle of independence of the staff of the Organization.

65. The system had thus lost all credibility to the point where the international community risked returning to the law of the jungle. His organization believed, however, that the failure of the United Nations was in fact the failure of the handful of major Powers that ran it. It was, therefore, high time that the international community once again took charge of the conduct of international affairs through a genuine process of democratization of the Organization.

66. In order to achieve that objective, a number of measures must be taken: publication in the press of the Organization's budget and a list of debtor countries; assigning concrete and precise objectives to the activities of the United Nations; reform of the Commission's working methods as proposed in document E/CN.4/1994/NGO/3; reaffirming the role of the World Bank and the International Monetary Fund (IMF) as specialized agencies and making them answerable to the Economic and Social Council and the General Assembly; ensuring that the office of the Secretary-General was impartial and more representative of the Organization's membership by making it collegial and not individual; increasing the size of the Security Council with equitable regional representation and abolition of the veto; inclusion of representatives of civil society as members of the delegations of States, without the right to vote; and maintaining the prerogatives of NGOs in United Nations bodies and rejecting the Secretary-General's proposal to place restrictions on them.

67. The choice before the international community was clear. Either it drifted towards a human society totally dominated by the implacable laws of the market or it restored civilized coexistence based on democracy, law and justice.

68. Given the unjustifiable omission of a specific agenda item on women's rights, he had only two comments to make on the report of the Special Rapporteur on violence against women. First, the documentary sources on which the report was based were almost exclusively in English, thereby depriving the Special Rapporteur of significant publications in other languages and of access to the legislative texts of some regions. Secondly, the report should have paid greater attention to the economic aspects of violence against women, such as the consequences of structural adjustment, extreme poverty, unemployment, declining social expenditure and the undervaluation of the work done by women in the home.

69. Mr. van WULFFTEN PALTHE (Netherlands) said that the preliminary report of the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/1995/42) would increase the public support and the legal and social basis for action against that worldwide phenomenon. The report distinguished between private, community and State-condoned violence against women and

States were called upon to refrain from such violence themselves and to show due diligence in investigating and prosecuting its perpetrators at the private and community level.

70. The eradication of violence against women was an important aspect, but still only one aspect, of the struggle for women's human rights. One of the most useful instruments to combat discriminatory practices had to date been the Convention on the Elimination of All Forms of Discrimination against Women. The impact of that Convention and of its monitoring body, the Committee on the Elimination of Discrimination against Women, could be further increased, however, by the universal ratification of the Convention. Governments should also limit the number of reservations and withdraw those which were incompatible with the object and purpose of the Convention.

71. The effectiveness of the Convention could also be enhanced by the introduction of the individual right to complaint, as was the case with several other international human rights treaties. In that connection, his Government supported the elaboration of a draft protocol providing for an inquiry procedure and the right of individuals and groups to submit complaints. For its part, the Committee's functioning could be improved by a more generous allocation of meeting time. Moreover, its relocation to Geneva would link it up to most of the other human rights treaty-monitoring bodies and thereby help to promote the human rights of women within the wider system.

72. One of the conclusions of the World Conference on Human Rights was that priority should be given to the integration of women's rights into the mainstream of the United Nations system. Practical measures to achieve that objective should cover the areas of reporting methodology, gender-impact analysis, training and public relations. Enhanced coordination and planning and the mobilization of resources and expertise were also required. On the issue of documentation and information, both Governments and United Nations expert bodies should provide more gender-disaggregated data.

73. The Fourth World Conference on Women, to be held in Beijing later in 1995, would take stock of the current situation of women's human rights, two years after the Vienna Declaration and Programme of Action. The World Conference should take into account the implications for women of the 1994 International Conference on Population and Development, which had established a dialogue on a number of issues that directly affected the lives of women around the world. The Beijing Conference should also take account of the conclusions of the forthcoming World Summit for Social Development, which would focus on such equally important issues as the soaring unemployment among women, the feminization of poverty and the marginalization of women in society.

74. Mr. BOUCHET (France) said that human rights were the last protective rampart of human dignity. National institutions that mobilized ordinary citizens had an important role to play in the promotion and protection of those rights. Unfortunately, few such institutions had been established in the past year and few of the existing ones had benefited from technical assistance. Nevertheless, more and more countries were beginning to show an interest in national institutions, which constituted a link between the State and civil society. Many national institutions had displayed great courage and

perseverance in the face of difficulties. He wished to pay tribute, in particular, to the President of the National Human Rights Commission of the Russian Federation for his principled position on the bloody conflict in Chechnya.

75. For its part, the French Human Rights Commission had organized in November 1994 the first regional meeting of national institutions from Western, Central and Eastern Europe. The meeting had adopted a resolution affirming the intention of the 17 national institutions represented to maintain closer contact with each other, to encourage the establishment and development of new national institutions in Europe, and to guarantee their internal pluralism and independence. The theme of the meeting had been "The struggle against racism and xenophobia: priorities and methods for harmonizing action in Europe".

76. The French Commission would shortly issue its sixth annual report on the struggle against racism and xenophobia. The report contained an in-depth analysis of the situation in France based on statistics of racial incidents and the number of cases prosecuted, the reports of grass-roots associations, and the results of an opinion poll which confirmed the danger that racism might become commonplace.

77. In keeping with its legal mandate, whereby it was competent to give opinions on all national and international human rights matters, the French Commission had considered numerous human rights issues during the previous year. In particular, it had prepared an opinion on the ethics of information and communication. In its view, freedom of the press and respect for the rights of individuals could not be reconciled in contemporary society without a new legal and ethical concept of press responsibility. The "gutter press" should no longer be allowed to dishonour a profession so highly honoured by those who risked their lives to carry out their vital mission.

78. In the area of the protection of the rights of the child, the French Commission was monitoring the implementation in France of the Convention on the Rights of the Child. It was also seeking clarification of the status of unaccompanied minors who were accepted into France within the framework of Government humanitarian operations.

79. In the area of computerized databases containing personal information on individuals, the French Commission had expressed concern over a draft European directive which did not provide adequate safeguards against the marketing of such data. It had just learnt with satisfaction that those deficiencies had been remedied.

80. The French Commission also welcomed the adoption by the French Parliament of legislation in the sensitive field of bioethics, which was aimed at ensuring respect for the rights of individuals and, more generally, for the genetic heritage of mankind.

81. Lastly, the French Commission welcomed the issue of the first arrest warrants in connection with crimes committed in the territory of the former Yugoslavia. It hoped that that development marked the first step towards the creation of an international criminal court.

82. Despite its shortcomings, the French Human Rights Commission had a useful role in disseminating information about the facts of human rights situations and in reminding the various authorities and society as a whole of the primary importance of respect for human rights in all circumstances. He hoped that national human rights institutions would be allowed to play their proper role in the work of the Commission on Human Rights and in all United Nations human rights bodies.

83. Mr. TORELLA di ROMAGNANO (Italy) said that he wished to address two separate issues under sub-item (a): the implications of the universality of fundamental rights and freedoms, and public information activities.

84. Like many other delegations, his own believed that United Nations action to improve the effective enjoyment of human rights and fundamental freedoms should take account of a number of other priorities as well as the right to development, which was taking on increasing importance. In exploring alternative approaches for achieving that goal, the Commission should ensure that a proper balance existed between the aims of advancing towards new frontiers and consolidating pre-existing human rights. It was difficult to implement third- and fourth-generation human rights without a general acceptance of fundamental rights. The difficulty encountered in implementing the right to development was just one example of the soundness of that argument.

85. Despite the widely shared conviction that all human rights and fundamental freedoms were indivisible, interdependent and interrelated, it was also true that fundamental human rights and freedoms had a special place in the vast arena of human rights. It was therefore necessary to give appropriate attention to those "traditional" human rights, with the aim of ensuring their effective enjoyment.

86. In the search for alternative ways and means of improving the effective enjoyment of human rights and fundamental freedoms, there were two important obstacles to be overcome. First, the numerous binding international instruments relating to different aspects of human rights were binding only on those States which had ratified them. Moreover, while rules concerning the most essential human rights had become rules of customary international law, the principle that all human rights and fundamental freedoms were indivisible, interdependent and interrelated did not leave room for States to distinguish between those fundamental rights and freedoms which they had accepted by ratifying an international instrument and those which they had not accepted.

87. At the same time, there was the constant and undisputed affirmation that States were obliged under the Charter to promote universal respect for and observance of human rights and fundamental freedoms, without discrimination of any kind. It was thus of paramount importance to single out those human rights and freedoms that were considered fundamental and, as such, universal. That problem could be dealt with in various ways: it might, for instance, be appropriate to entrust it to an ad hoc working group or other body. The exercise was not a merely formalistic or technical one, but was meant to create certainty in the field of internationally protected human rights.

88. If that aspect of United Nations legislation was clarified, States would no longer be able to plead the fact that they had not ratified a certain convention to avoid respecting a fundamental, and therefore universal, human right. That did not mean, of course, that the campaign to induce States to ratify or accede to international instruments should be abandoned; for that was the only way to ensure that States were obliged to respect and comply with all the rules that were corollary or had procedural value, such as those concerning periodic reporting or communications from individuals. The drafting of a code of universal rights of individuals was not merely a technical requirement: once the principle of the universality of fundamental human rights had been consolidated, it would be easier to achieve progress in implementing all other human rights.

89. His delegation was convinced that the primary responsibility for ensuring that all human beings could actually enjoy their internationally recognized rights lay with States, which must bring their domestic legislation into line with international standards and provide effective means of redress for violations. In that connection, it was necessary to provide individuals with an international forum, of a judicial or quasi-judicial nature, that could rule on complaints by individuals claiming to be victims of violations by a State of a right set forth in the international instruments.

90. The ultimate goal was the establishment of a world court for human rights. However, any suggestions whose main thrust was that a dispute between a State and an individual concerning human rights should be brought to the judgement of some independent body deserved consideration.

91. Turning to the question of public information activities, he said that there was clear evidence of the enormous importance of such activities for the purposes set out in Article 1, paragraph 3, of the Charter. As was reaffirmed in the Vienna Declaration and Programme of Action, effective and broad dissemination of human rights information was essential to the promotion and protection of those rights and freedoms. The launching of the United Nations Decade for Human Rights Education further confirmed the importance of enhancing national and international efforts in that regard.

92. While his delegation was encouraged by some of the results of the review of its information programme that the Centre for Human Rights had undertaken, it urged the Centre to complete that review as soon as possible, taking particular account of the need to rationalize its publication and information programme. His delegation continued to attach the utmost importance to effective coordination between the Centre and other United Nations bodies and international organizations in the enhancement of human rights information activities. The High Commissioner for Human Rights also had an important role to play in coordinating and harmonizing public information programmes within the system so as to make the best use of the scarce resources available which were in no way commensurate with the demands of Member States and the international community and which must be increased.

93. Mr. YALDEN (Canada) said that, as Head of the Canadian Human Rights Commission, he was also speaking on behalf of the Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. That Committee had been established at the 1993 Tunis Workshop on National

Institutions and represented a worldwide network of human rights agencies whose aim was to promote the creation and strengthening of national human rights machinery.

94. A key component of the United Nations' work was to ensure not only that its own machinery was effective but also that its Member States had the infrastructure needed to translate their commitment to human rights into effective action on the ground. The two goals were mutually reinforcing: the United Nations human rights machinery could not but be enhanced by support at the grass-roots and institutional levels, while an effective national human rights infrastructure could cope with human rights problems before they reached crisis proportions requiring United Nations attention.

95. The active role that national institutions for the promotion and protection of human rights had begun to play in the United Nations system was recognized in Commission resolution 1994/54, and it was to be hoped that the Commission could move that process forward, by more clearly defining the status of those institutions within the United Nations system. Still more important, perhaps, was the need for more coordinated action to assist the creation and strengthening of human rights infrastructures in Member States. In the short term, Member States must make a concerted effort to increase their contributions to the Voluntary Fund for Technical Cooperation in the Field of Human Rights. In the medium term, the Centre for Human Rights should receive increased funding from the regular budget for that purpose. Furthermore, national institutions provided a reservoir of expertise that should be systematically tapped in developing and delivering programmes.

96. As for the longer term, the ideal would be the establishment of a comprehensive system of national human rights institutions, with reference to the principles adopted by the Commission and the General Assembly since 1991. That would be a means of effectively implementing Member States' international commitments at the national level. The relationship between such a system and the Centre for Human Rights and the Commission would be mutually supportive, providing institutions with a forum in which to exchange ideas and information, and encouraging coordinated action.

97. For any of those things to happen, however, the United Nations must make a firm financial and moral commitment, recognizing the key role that national human rights institutions could play in a global context.

98. Mr. STROHAL (Austria) said that the country profiles in the report of the Representative of the Secretary-General on internally displaced persons (E/CN.4/1995/50, paras. 20-45) were highly commendable, particularly in view of the extremely scant Secretariat resources available to him, and constituted a first step towards providing the international community with a phenomenology of displacement. The Representative also addressed a specific characteristic of that phenomenon, which was assuming monumental proportions, by insisting on the close links between human rights and the humanitarian issues involved. In October 1994, the Government of Austria had organized a legal round table for the Representative, at which a number of international experts had presented him with an analysis of the specific needs involved, of

the foundations in international law, and of existing rules and norms relating to internal displacement. It was prepared to continue its support for those efforts, with a view to achieving the necessary synthesis in that area.

99. The Representative had played a catalytic role in discerning the scope and complexity of the problem of displacement, a role that had led to the increased recognition of the dimensions of the problem by the international community, as expressed in a number of international and regional declarations. Further, closer and systematic involvement by the Representative, particularly in cooperative and coordinating efforts within the system, should be beneficial to the international community in its task of finding adequate and timely responses. That involvement was particularly necessary where internal or external conflict was a cause of displacement, for the Representative had an important potential role to play in enhancing international conflict resolution and mitigation efforts, and in strengthening the preventive capacities of the international system in that regard.

100. The Representative had also presented the Commission with the outline of a comprehensive global strategy (paras. 266-269) to protect and assist the internally displaced. His achievements thus far included entering into a global dialogue on the basis of a review of the existing framework and situation; encouraging and promoting national, regional and international capacities for the internally displaced; and mobilizing international action. In so doing, he had shown a commitment commensurate with the challenge posed by the displaced, a commitment that must be matched by the international community.

101. Ms. GAER (United States of America), said that for too long the Commission had all but ignored rampant and systematic abuses of the human rights of women, choosing to regard the most horrendous violations of their rights as "domestic difficulties", "customary practices", common crimes, or as private or internal matters. Her Government and people were thus gratified to note that, over the past two years, that situation had begun to change, and that the United Nations had begun to recognize women's rights for what they were: universal, indivisible, interrelated and interdependent human rights.

102. The process had started in Vienna in 1993, when almost half a million women had signed petitions to the World Conference on Human Rights, and had been reflected at the previous session of the Commission, when a Special Rapporteur on violence against women had been appointed. The Fourth World Conference on Women, to be held in Beijing in September 1995, would, for the first time, identify women's human rights as a critical area of concern. It was her delegation's expectation that significant new ways of implementing those rights would be agreed upon at that Conference.

103. The excellent preliminary report of the Special Rapporteur on violence against women (E/CN.4/1995/42) graphically documented the horror of the violence women faced throughout the world; and pointed to Government inaction, a permissive attitude and a tolerance of the phenomenon as its chief causes. In many parts of the world, violence against women went virtually unnoticed: it was not reported, criminalized or punished. The consequences were fear, vulnerability, dependence and silence. But women were no longer prepared to be intimidated and to remain silent.

104. The practical recommendations made by the Special Rapporteur included a call for violence against women to be reported in full to the relevant United Nations bodies. Henceforth, women's human rights must not be treated as an afterthought in the reports of special rapporteurs and the work of treaty bodies, but must be fully integrated into the mainstream of the Organizations system-wide activity, as proclaimed in the Vienna Declaration.

105. That Declaration also stressed the need for further cooperation and coordination between the Centre for Human Rights and the Commission on the Status of Women. A procedure must be found to enable that Commission to review the many reports prepared by special rapporteurs and working groups of the Commission on Human Rights and to comment upon them, identifying any inadequate gender sensitivities and suggesting ways to protect women's human rights effectively. Similarly, the High Commissioner for Human Rights should review the reports prepared for the Fourth World Conference on Women and report on any inadequacies at the national level.

106. Her delegation welcomed the increased discussion of gender issues in the reports of many thematic mechanisms, and singled out the excellent work done by the Representative of the Secretary-General on internally displaced persons in documenting the appalling threats faced by internally displaced women. Her delegation looked forward to more work of that nature, and believed that special attention must be paid to the exploitation of migrant women, who were particularly vulnerable to violence, threats and blackmail.

107. At its previous session, the Commission had taken a step forward by considering more than 30 resolutions that made specific reference to gender-related issues. The time had come, however, to move beyond discussion to action. Rapporteurs must focus more actively on abuses confronting women. No custom, no local practice or quaint regional particularity could justify the violence women faced throughout the world, or the silence that all too often accompanied it. It must be made absolutely clear that the abuse of women would no longer be tolerated.

108. In that regard, other Governments should join her own in helping to strengthen the capacity of the International Tribunal to prosecute crimes of rape in the territory of the former Yugoslavia. The international community had the forums it needed to talk about the protection of women's human rights. The question was whether it was possible to move beyond words and make universal respect for those rights a reality.

The meeting rose at 6 p.m.

Annex

List of non-governmental organizations sponsoring the statement by
the International Council of Jewish Women, under agenda item 11

International Movement against All Forms of Discrimination and Racism

Movement against Racism and for Friendship among Peoples

World Federation of Democratic Youth

International League for the Rights and Liberation of Peoples

African Association of Education for Development

International Movement for Fraternal Union among Races and Peoples

Pax Christi International

International Association for the Defence of Religious Liberty

All-India Women's Conference

International Committee on European Security and Cooperation

International Federation of University Women

World Union of Catholic Women's Organizations

International Youth and Student Movement for the United Nations

Monta International

International Council of Women

International Alliance of Women

International Federation Terre des Hommes

Centre Europe - Tiers Monde

International Association of Democratic Lawyers

Associated Country Women of the World

World Federation of Methodist Women



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COMMISSION ON HUMAN RIGHTS

Fifty-first session

SUMMARY RECORD OF THE 40th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 23 February 1995, at 7 p.m.

Chairman: Mr. DOBREV (Bulgaria)

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(continued)

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SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS;

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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (continued)

The meeting was called to order at 7.10 p.m.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:
(agenda item 11) (continued)

- (a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;
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- (c) COORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;
- (d) HUMAN RIGHTS, MASS EXODUSES AND DISPLACED PERSONS

(E/CN.4/1995/5 and Add.1, 42-45, 46 and Add.1, 48, 49, 50 and Add.1-3, 51, 107, 113, 147; E/CN.4/1995/NGO/5, 8, 22, 28)

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 21) (continued)
(E/CN.4/1995/85, 87 and Add.1, 88, 89 and Add.1, 90; E/CN.4/1995/NGO/10;
A/49/635 and Add.1)

1. Mr. NFOR GWEI ON (Cameroon), speaking on agenda item 11 (b), said that his country's National Commission on Human Rights and Freedoms had been in operation for three years. Although the subject of human rights was of great concern to Cameroon, which had ratified almost all international human rights instruments, the Commission had found it difficult to ensure that theory was translated into practice. The lack of awareness of most Cameroonians, particularly those in rural areas, of their human rights, the problems arising from the transition from a single-party to a multi-party system, and economic depression were among the difficulties which had hindered the advancement of the human rights cause.

2. However, since the promulgation in 1990 of the "liberty laws", which, among other reforms, had abolished political prisons and revised the law on press freedom, the situation had improved. Cameroonians now felt free to report human rights violations, and as a result the Commission had been flooded with complaints on matters ranging from arbitrary arrest and detention to illegal dismissal from employment, non-payment of pension benefits and delays in payment of salaries. Many of the complaints called for prompt on-the-spot investigation, but unfortunately the Commission's scope for action was limited by lack of financial, material and human resources.

3. In an effort to combat widespread ignorance of human rights legislation, the Commission had embarked on an education programme which included instruction in schools, seminars, workshops, press conferences and interviews on radio and television. In particular, it had organized a three-day training seminar for administrative officers and high-ranking members of the military, the police and the prison service, designed to sensitize them to the need to

respect human rights in the discharge of their duties. Under a second project, 76,000 human rights posters had been put up in public places throughout the country.

4. He thanked the High Commissioner for Human Rights for his positive initiative in devising a preventive human rights action training programme for Burundi designed to prevent impending catastrophe. He hoped that that type of programme would not be limited to Burundi, since it was greatly needed by many other developing countries; he urged the High Commissioner to take the necessary steps to meet that important need.

5. Mr. YOUNG SAM MA (Republic of Korea) said his delegation appreciated the increasing concern shown by both the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities about the question of systematic rape and sexual violence during wartime. Tragic incidents during recent conflicts in certain parts of the world had served as alarming reminders of the vulnerability of women to such atrocities, and more attention should be paid to them by the international community, including the United Nations.

6. The preliminary report recently submitted by the Special Rapporteur on violence against women (E/CN.4/1995/42) was of critical importance, because it would provide a basis for further discussion of the problem of Korean "comfort women" victimized during the Second World War. The report maintained that, despite the half century that had elapsed since the end of the war, that problem was still of concern, and pointed out that its solution could set a legal precedent for the prosecution of perpetrators of systematic rape and sexual slavery in times of armed conflict.

7. He welcomed the decision taken by the Sub-Commission at its forty-sixth session to have a working paper prepared on the subject, and also its decision to transmit information concerning the sexual exploitation of women and other forms of forced labour during wartime to the Special Rapporteurs on the question of the impunity of perpetrators of human rights violations for their consideration.

8. His Government had urged the Japanese Government to make a thorough investigation of the matter, in the hope that such an investigation would lead to a better understanding of history and thus prevent a repetition of the same mistakes. The statement by a minister of the Japanese Government in August 1993 had been a positive step, and his delegation hoped that the follow-up measures promised would be effective.

9. Lastly, he strongly supported the efforts being made by non-governmental organizations (NGOs) both at home and abroad, together with United Nations initiatives, and hoped that the Commission would continue to address the matter, which even today remained of grave concern to the Korean Government and people.

10. Mr. LAKATOS (Hungary), speaking on agenda item 11 (d), said that one of the main reasons for the current mass exoduses and refugee flows was the lack of human rights guarantees. He was convinced that an appropriate human rights policy was the most effective way to address the problem. Human rights could

not be considered as an exclusively internal affair: the international community had a responsibility to call upon States to fulfil their obligations in that respect. Almost all countries with a large population of internally displaced persons were also refugee-producing countries, and the factors causing refugees and displaced persons to flee their homes were often identical. As a result, protection and assistance to internally displaced persons were major tools in preventing refugee outflows. Because civil war was often the root cause of displacement, mechanisms for providing protection and assistance would have to be coordinated with mechanisms for peacemaking, peace-keeping and post-conflict peace-building. It should be recognized that in the absence of political will, humanitarian assistance and an international presence could not in themselves provide effective protection for victims or prevent further displacements or refugee flows.

11. Prevention was the most effective form of protection for persons in danger of becoming refugees, and its success depended on effective early warning of imminent displacements. Early warning, in turn, relied on the systematic collection and analysis of information from potential refugee-producing areas; such information should be made available promptly and without restriction to all interested Governments. Stronger inter-agency cooperation was needed, and in that regard he welcomed the establishment by the Administrative Committee on Coordination of the Ad Hoc Consultation on early warning regarding new flows of refugees and displaced persons.

12. Similarly, the most reliable method for anticipating problems was by direct human rights monitoring in the field. The presence of external witnesses might itself deter some abuses and, if deterrence failed, monitors could warn Governments and the international community to take appropriate action. Indeed, preventive action could help to avoid such disasters as the collapse of Governments or the outbreak of internal or international conflicts.

13. Under existing humanitarian law, the international community had a legitimate concern with the plight of people in refugee-like situations inside their native countries, but at present the Office of the United Nations High Commissioner for Refugees (UNHCR) was ill-equipped to deal with such situations. There was thus an urgent need to set up an effective mechanism to deal with the problem, and he suggested that work might be begun on a legal instrument addressing it specifically. There were obvious gaps in the existing law with regard to the specific needs of internally displaced persons, and he urged that existing international norms and standards governing the matter should be consolidated and reviewed.

14. As the number of refugees continued to grow, temporary protection, followed by voluntary repatriation with an international presence to monitor the safety of returnees, would seem to be the best durable solution. A focus on safety of return and reintegration would mean that organizations involved would have to shift their operational priorities from receiving countries to countries of origin. Existing United Nations human rights machinery needed to be strengthened and applied more effectively to deal with refugees, returnees and internally displaced persons. The protection of minority rights was particularly important in the case of refugee flows arising from ethnic conflicts.

15. In conclusion, he paid tribute to the brave men and women of UNHCR and other humanitarian organizations who were risking their lives to protect and assist refugees and displaced persons.

16. Mr. RAVALOSON (Observer for Madagascar) said that despite serious economic and financial constraints, his country's authorities were making every effort to ensure respect for human rights. However, action at the international level was also needed, and it was for that reason that Madagascar had welcomed the Vienna Declaration and Programme of Action, which had stressed the importance of strengthening the World Public Information Campaign for Human Rights. He appealed to all those concerned to continue to support the United Nations Centre for Human Rights both financially and in terms of human and material resources, and in particular urged that the Voluntary Fund for Technical Cooperation in the field of Human Rights should be supplemented on a regular basis, so that the Centre could operate under optimum conditions and the world information campaign could be made more effective.

17. His delegation considered that national human rights institutions, if they were to be effective, required a political regime based on respect for the law and individual freedoms, as well as an independent and impartial Judiciary. Such institutions should enjoy considerable independence and a high level of credibility, and should be accorded a legal status recognized both nationally and internationally, notably within the various United Nations human rights bodies. They should be entitled to participate as a right in meetings of such bodies on all questions of interest to them, and should be authorized to act independently of the Governments of their respective countries, even formulating opinions at variance with those of their Governments should the occasion arise.

18. In particular, he endorsed the views expressed by the Canadian Human Rights Commission in the report by the Secretary-General on the matter (E/CN.4/1995/48). National institutions should in fact be given a status in keeping with the principle of independence recognized by General Assembly resolution 48/134 as applicable to them: a status similar to that of non-governmental human rights bodies would be wholly inadequate. They should at the very least enjoy a status similar to that of a United Nations specialized agency, although care should be taken to ensure that the administrative implications of that status were not unduly burdensome to United Nations human rights bodies.

19. Indeed, even more could be done in that direction. While recognizing the considerable progress made in reassessing the status of national institutions following General Assembly resolution 48/134, and the effectiveness of the procedures initiated through the Human Rights Committee, he believed that United Nations decision-making bodies should undertake a study with a view to according established national institutions a rank and status equivalent to those of Governments where discussion of human rights matters within the United Nations was concerned. That would make it possible for all points of view to be expressed, and would serve as a brake on the frequent abuses committed by Governments acting as judges in their own cases.

20. Admittedly such a reform, which represented a departure from the traditional concept of the sovereign State to which the United Nations had subscribed since its foundation, would call for discussions ranging beyond the field of competence of the Commission, and would concern other decision-making bodies such as the General Assembly. However, he believed that was the price to be paid if the cause of human rights was to be advanced. A parity-based structure of that kind would not be entirely foreign to the United Nations system, since it would be based on the formula in force in the International Labour Organization, which was also active in regard to human rights norms.

21. Turning to agenda item 21, he said that Madagascar attached the greatest importance to implementation by United Nations bodies of decisions on advisory and technical cooperation services. International cooperation through such services was vital in assisting countries wishing to improve their own human rights protection systems, so that they could fulfil their international obligations despite their lack of financial and technical resources. Madagascar was hoping to benefit from such services in the near future, and hoped also to be a beneficiary of donations to the Fund for Voluntary Contributions. His delegation requested that when choosing projects for advisory and technical cooperation services, priority should be given to requests from the least developed countries.

22. Mrs. PLATTNER (International Committee of the Red Cross) said that while the mandate of ICRC was to protect and assist victims in situations of armed conflict and internal disturbance, it also had the task of monitoring the application of international humanitarian law in such situations. It was therefore constantly making representations to the authorities to ensure that they did not treat as enemies people who were not fighting against them, and afforded humane treatment to enemies who were hors de combat. Its efforts to reduce the suffering of victims often encountered problems, notably when the international community lost interest in conflicts which had been too long in the limelight.

23. A recent meeting of intergovernmental experts in Geneva had adopted a number of recommendations designed to prevent violations of international humanitarian law in time of war. Nevertheless, the problem of the attitude to be adopted in the face of deliberate determination to flout that law during armed conflict was still unsolved, and the impact of ICRC action in such circumstances was very limited. Deliberations on the measures which had been recommended at the meeting of experts should thus continue, so that the international community would be able to react decisively to tragedies that were spectacularly reported by the media but often forgotten or ignored by public opinion. ICRC, for its part, would intensify its contacts with Governments and alert them to any major violations, so that they could fulfil their responsibility to ensure respect for international humanitarian law under article 1 of all four Geneva Conventions.

24. She expressed appreciation for the work of the Secretary-General's Representative on internally displaced persons, work with which ICRC had been associated for a number of years. Her organization believed that a situation-based approach should continue to prevail over an approach based on categories of individuals: violations of humanitarian law affecting displaced

persons could not be dissociated from those which caused displacement, or from violations committed against the civilian population during military operations. It welcomed the research being carried out with a view to identifying the rules protecting internally displaced persons, research which had highlighted the relevance of international humanitarian law. A set of principles or a declaration relating to internally displaced persons might usefully serve as a reminder of the protection afforded by that law.

25. Another cause of population movement was the indiscriminate use of mines. It should be realized that mines killed 800 people a month, most of them women, children and farmers: no fewer than 100 million mines had been laid in 62 countries and had created huge "no-go areas", thus depriving the population of food supplies and forcing them to leave their villages. The scale of the suffering they inflicted was such that ICRC had launched a campaign to mobilize public opinion in favour of a total ban on mines.

26. In situations which were not covered by international humanitarian law, notably internal disturbances, the number of victims could also be high, and for their protection consideration should be given to the Declaration on Minimum Humanitarian Standards adopted by a group of experts in Turku (Finland) in December 1990 and recommended for further study by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. That Declaration deserved in-depth examination by States.

27. Ms. BREEDS (Women's International League for Peace and Freedom) welcomed the report by the Special Rapporteur on violence against women (E/CN.4/1995/42). While the League shared the outrage expressed in that report at mass rapes committed in armed conflicts, it also saw a need to pay attention to all forms of violence suffered by women as a result of such conflicts.

28. It was the primary duty of States to guarantee the security of its citizens and to find peaceful solutions to conflicts. Security implied enjoyment of basic rights, freedom from hunger and fear, adequate housing, and, crucially for women, guarantees of physical safety. States frequently invoked national security as an excuse for using military means to solve conflicts, but in so doing they in fact jeopardized the human rights of all their citizens.

29. The violence of war began well before war had even broken out. Military preparations wasted resources desperately needed for economic development. The radiation produced by nuclear-weapons testing adversely affected people's health through the contamination of food, air and water. It was estimated that by the year 2000, weapons-related environmental radiation would result in 90,000 cases of cancer worldwide, an increase in many other diseases and reproductive disorders, and 2 million miscarriages and infant deaths.

30. Modern warfare frequently made the civilian population, the majority of whom were women, its prime target. When the devastation of war created scarcities of food and resources, women's needs were the last to be met; meanwhile, they also bore the burden of ensuring the civilian population's survival. Existing forms of violence against women escalated during wartime.

In the face of horrific wartime abominations against women, it was necessary to work towards the eradication of the deep-rooted culture of war, which implicitly deemed such violence acceptable.

31. Women's double victimization, as civilians and as the targets of gender-specific crimes, was illustrated by horrifying reports on the situation of Kurdish women in Turkey. Military personnel had gathered Kurdish villagers together and then undressed and raped women in front of the whole community with the aim of obtaining information about people who had joined the guerrillas or were being sought by the military. Medical personnel had forced women to undergo gynaecological examinations to establish whether they had had sexual intercourse with their husbands and, accordingly, whether the husbands were in the vicinity. The Commission was urged to investigate those allegations.

32. The human rights violations caused by war did not stop when the fighting was over. The extremely vulnerable position of women refugees demanded special attention. Sudanese women, for example, driven out of their country because of the war in the south and religious and political persecution in the north, often fled to Egypt, where they had difficulty finding employment and were threatened with homelessness. To draw attention to their situation, they had organized a peaceful demonstration on 20 October 1994. The demonstration had been violently broken up by Egyptian security forces and many women had been injured, some of them seriously. Her organization strongly recommended that the Commission should investigate that incident and, in cooperation with UNHCR, seek a way of easing the burden of such women refugees.

33. In conclusion, her organization supported the vital work done by the Special Rapporteur on violence against women. If her work's potential was to be fully realized, however, the underlying causes of war must be taken into account. The concept of peace must be understood as an ongoing process involving the elimination of all forms of violence - domestic violence, structural violence and the violence of war.

34. Mr. ETCHART (International League for the Rights and Liberation of Peoples) noted that the presence of civil defence forces in numerous countries triggered many human rights violations. While they were described as auxiliary bodies of security forces, with the task of preserving public order and defending the public, they were actually war machines. The civil defence forces in Guatemala, for example, which were called Civil Self-Defence Patrols (PACs), kept the civilian population in a state of deep insecurity. They indulged in conscription and carried out summary executions, disappearances and torture on a daily basis and with impunity. In March 1994, a PAC unit had raided a number of houses in the village of Xalbil, stolen property from the villagers and raped a 14-year-old girl. His organization endorsed the views in paragraph 187 of the report of the independent expert on Guatemala (E/CN.4/1995/15) and noted that even the Guatemalan Procurator for Human Rights, in an interview with a Colombian newspaper, had stated that the PACs were a disruptive element in society.

35. It was disturbing to note the emergence of new types of civil defence forces, supposedly created to respond to a wave of social violence and insecurity in some countries. In reality, such groups engaged in what was

essentially "social cleansing" in cities: they physically eliminated those they considered undesirable and responsible for lack of security. Petty criminals, street children, needy and unemployed persons, and prostitutes were often murdered. In the countryside, veritable private armies were formed and financed by landowners to impose their own law on the population. At times they cooperated with the armed forces to eliminate what military manuals called the "insurgent civilian population".

36. Such activities essentially legalized vigilante groups and paramilitary organizations. His organization was deeply concerned about initiatives like the one recently proposed by the Colombian Ministry of Defence. It would involve the establishment of "rural security cooperatives" made up of civilians armed by the military and paid by the army. Although the proposal had been modified in the wake of massive NGO opposition, the exact nature of the modifications was not known.

37. The use of terrorism was reprehensible in all circumstances: no ideology, ethical outlook or political orientation could be used to justify it. It was therefore a cause of concern that the Commission had failed to speak out on State terrorism. That phenomenon was unfortunately still alive and well, and all the more shocking in that it emanated from the State itself. A number of military manuals in various countries gave instructions for carrying out terrorist acts and covert operations for the purpose of modifying a political situation or generating a new one.

38. Another area of concern to his organization was the ambiguous and loose definition of the term "terrorism", by which some States were able to brand legitimate actions of political opposition or social protest as constituting a crime. Peru and Colombia represented dramatic examples of the arbitrary and dangerous use of that definition. In 1994, a number of trade unionists, peasants and members of civic organizations had been accused of terrorist activities for actions that were by no means illegal, such as peaceful "sit-ins", in public places, strikes and protest marches. His organization appealed to the Commission to speak out against such violations of human rights.

39. Mr. GILANI (World Society of Victimology) said that in the context of Commission resolution 1994/68 on the work of the Secretary-General's Representative on internally displaced persons, the Secretary-General had received a communication from Amnesty International concerning India that had referred to the disputed State of Jammu and Kashmir. The people of Kashmir had suffered four major displacements in their history - in 1948, 1963, 1971 and 1990. In the first three, the women, children and elderly people who had fled from the army had been exclusively Muslims. The fourth displacement, which was still continuing to the present day, affected Hindus as well as Muslims.

40. The action of the Indian army, together with environmental damage, constituted the main reason for the displacement. Because 600,000 soldiers needed housing and firewood, substantial damage had been inflicted on the forests of Kashmir and the local population had been deprived of sustenance. It had been suggested that an early-warning system might be a first step towards arresting the phenomenon of displacement. Such an early-warning

system had been in place for Kashmir since 21 April 1948, when the Security Council had adopted a resolution on that state. However, the mechanism had never been respected.

41. The Representative of the Secretary-General on internally displaced persons had been asked to compile a set of factors that caused displacement. In the case of Kashmir, the "pass laws" represented one such factor. The laws authorized invasion of privacy around the clock, including travel or during religious or social activities. Segregation of men and women during pass checks at night frequently led to the rape of women. Under the pass laws, two choices were offered: either consent to sex or initial detention of six months, with possible lengthy extensions and without legal recourse. The only escape from that dilemma was displacement.

42. Resolution 1994/24, adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-sixth session, referred to the right of refugees and displaced persons to return, in safety and dignity, to their place of origin or choice. As early as 1948, the United Nations had proclaimed that right for the displaced people of Kashmir. The United Nations viewed human rights violations as a major cause of mass exodus and considered that all possible measures must be taken to improve the human rights situation, including information-gathering. Those findings had a direct bearing on the displacements in Kashmir. Unless the root cause of the human rights abuses there was addressed, and as long as India kept its army at war with the people of Kashmir, people would continue to flee their homes.

43. In its reply to the Representative of the Secretary-General on internally displaced persons, UNHCR had stressed the importance of a three-point strategy for averting circumstances which forced people to flee. The strategy entailed preparedness to provide effective protection, assistance and measures such as voluntary repatriation. Those points could be applied to Kashmir by the Commission, through its own machinery and under terms of reference conferred by the United Nations. Peace was not solely in the hands of Pakistan or India: it was also inherent in the Commission's will. It was time for a number of United Nations bodies, including the Commission, to address the serious problem of Kashmir. Peace would return to that region and the displaced inhabitants would return to their homes only when they saw the Commission taking positive steps to counteract their forcible eviction and to overcome obstacles to their return home.

44. Ms. SEIGEL (International Alliance of Women) said that her statement reflected the views of 19 organizations, in addition to her own, that were concerned with women's rights. Although there had been some progress since the Third World Conference on Women, women had still not become equal partners with men at all levels of human endeavour, including in the family. That was why the organizations for which she spoke urged the Commission to adopt by consensus the draft resolutions proposed by Canada as a follow-up to resolutions 1993/46 and 1994/45, as well as the draft resolutions on women migrants and trafficking in women.

45. As the Special Rapporteur on violence against women had pointed out, such violence was based on power and was prevalent in all peoples, social classes

and parts of the world. It was only recently that women had dared to speak out against violence. The Commission should give the Special Rapporteur all the support she needed in carrying out her difficult and important task and should act upon her preliminary recommendations.

46. A focal point on women had not yet been officially established in the Centre for Human Rights. The Commission should take urgent action to establish that post at an appropriate level, and with the necessary prestige and resources. The purpose would be to initiate such activities as the publication of a teaching manual on women's human rights, and training courses on women's rights and violence against women for judicial and medical personnel.

47. It was noteworthy that the human rights treaty bodies and special rapporteurs had begun to consider women's rights in the context of their mandates. Her organization commended the Committee on Economic, Social and Cultural Rights for its efforts in that regard, but believed that much more coordination was necessary.

48. In his report on internally displaced persons, the Representative of the Secretary-General referred to the situation of women and the need to provide special treatment in order to protect their rights (E/CN.4/1995/50/Add.1, paras. 114 to 118). He noted that women needed to be better organized, although the few women's organizations that already existed did excellent work in providing assistance and supporting income-generating programmes. A general problem for women was land ownership, which the Representative referred to in his report on Burundi (E/CN.4/1995/50/Add.2, para. 76).

49. In the report of the Secretary-General on HIV/AIDS (E/CN.4/1995/45), it was proposed that States should ensure women's active participation in primary health care and other health services. It was important that the Sub-Commission on Prevention of Discrimination and Protection of Minorities should renew the mandate of the Special Rapporteur on traditional practices harmful to the health of women and children. The report on public information and the World Public Information Campaign for Human Rights (E/CN.4/1995/46) listed a number of fact-sheets and other publications: the Commission should recommend that both a fact-sheet and more detailed publications on women's rights should be issued. All such activities must be closely coordinated by the Commission on the Status of Women, the Division on the Status of Women and the Committee on the Elimination of Discrimination Against Women.

50. Lastly, she urged the Commission, as its contribution to the fourth World Conference on Women, to enunciate clearly the need for true partnership between women and men in order to make human rights and fundamental freedoms a reality.

51. Ms. SCHREIBER (International Movement Against All Forms of Discrimination and Racism) congratulated the Special Rapporteur on her thorough and instructive report on violence against women, in which she stressed three forms of violence: violence in the family, violence in the community, and violence perpetrated or condoned by the State. She made reference in her report to "commercial sex workers", yet aside from a minority of women who

practised prostitution of their own free will, the majority of such "workers" were abused, ill-treated and insulted. The fate of such women, especially in developing countries, was still generally overlooked.

52. According to reports, over 200,000 Asian women, mainly Koreans, had been forcibly recruited by the Japanese high command to serve as sex slaves in "military comfort houses" or brothels. Over 20 lawsuits had been filed against the Japanese Government for war compensation for wrongdoings. The Japanese Prime Minister had delivered an apology, but the actions of the State had still to be characterized as a crime under humanitarian law. The question was of critical importance, as it would set a legal precedent for international prosecution of systematic rape and sexual slavery in times of armed conflict.

53. Turning to the problems of displaced persons and mass exodus, she noted that there were currently over 100,000 Bhutanese refugees living in exile in India and Nepal. That figure represented over 16 per cent of the Bhutanese population. Sixty-five per cent of the refugees were women and children. In response to requests from Bhutanese organizations, her organization had sent a mission to Nepal. It had also organized a panel discussion on Bhutan at the forty-sixth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and had supported an appeal to the Government of Bhutan to ensure the safety of all citizens residing in southern Bhutan and to create conditions allowing the return of refugees to their lands, homes and places of origin.

54. It was now more than 20 years since the Secretary-General had first been asked to use his good offices to find a just and viable solution for the problems affecting Cyprus. Continuous efforts had been made to end a situation the Security Council had repeatedly declared unacceptable, and which had resulted in continuous suffering, prolongation of refugee status and exile.

55. In the Indian state of Kashmir, a major exodus of almost the entire religious minority of Pandits and the internal displacement of numerous members of traditional political parties had occurred as a result of the rise of externally-sponsored armed insurgency in 1989. Hundreds of members of those two groups had been killed. For the past six years, nearly 400,000 internally displaced persons had been living in 55 camps. The situation deserved the Commission's attention with a view to ending the ordeal of the refugees and displaced persons.

56. In connection with regional arrangements for the promotion and protection of human rights, she informed the Commission that an Asia-Pacific Human Rights Information Centre had been opened in Osaka (Japan) on 7 December 1994. The Centre was to promote human rights in the Asia-Pacific region and to reflect the region's unique perspectives on human rights. To that end, it would establish an information network and research units, organize education and training courses, provide consultancy services, and publish a newsletter and annual reports.

57. Mr. SILK (Robert F. Kennedy Memorial Center for Human Rights), speaking on agenda item 21, said that his organization wished to emphasize the positive

and complementary roles of the United Nations and the Commission in promoting human rights, especially in States emerging from periods of pervasive human rights abuse. Such countries needed the assistance of the United Nations advisory services in developing their capacity to comply with international standards and redress past abuses. The effectiveness of that assistance might be diminished without the crucial contribution of the Commission in monitoring the evolving human rights situation, which was often marked by continuing human rights abuses as the authorities struggled to establish the institutions necessary for the rule of law.

58. Examples of the positive role played by a combination of United Nations bodies could be seen in Haiti, Cambodia and El Salvador. In Guatemala, the United Nations Mission was beginning its work and the Commission had a vital role to play there in addressing human rights concerns. Human rights violations were still widespread in that country, and the independence of the Judiciary and the activities of the military and the so-called civil self-defence patrols remained matters of great concern.

59. An important part in promoting human rights in Guatemala had been played by the United Nations Independent Expert on Guatemala, whose ability to investigate and act on current and past human rights problems was indispensable if respect for human rights was to be achieved. The report by the Independent Expert was to be commended, especially its clear reiteration of the need to disband the patrols and for continued monitoring and assistance to the Government. The patrols had been responsible for many of the worst human rights violations and had been recognized by the Inter-American Commission on Human Rights as a serious obstacle to domestic peace. The Commission should be unequivocal in calling for their abolition.

60. Both the fact-finding and assistance aspects of the Independent Expert's mandate complemented the Commission's important role in Guatemala, and it was essential to extend the Independent Expert's tenure. Failure to do so would set an unfortunate precedent for United Nations human rights activities in other areas of the world. Given the continuing and serious human rights violations in Guatemala, the Commission needed to discuss the situation in that country under agenda item 12 and should renew the Independent Expert's mandate, including the mandate to report to the Commission.

61. Mr. HERNANDEZ (International Indian Treaty Council), speaking for his own organization and for the Comité de Unidad Campesina, drew the Commission's attention to the plight of people displaced by the conflicts in Guatemala. Since the early 1980s, over 1 million Guatemalans, most of them Mayan, had been forced to leave their homes by the army massacres and "scorched earth" policy. They now lived in cities, in a refuge in southern Mexico or in the forest in the so-called "comunidades de población en resistencia", which had been visited in February 1994 by the Inter-American Commission on Human Rights and the representative of the Independent Expert. Their subsequent reports drew attention to the problems facing the forest communities, notably, harassment and intimidation by the military, lack of legal recognition, essential services and land, and low levels of economic development. The extreme poverty in which the displaced people lived had a direct effect on their health, especially on that of the children. Their appeal to the Government to be allowed to live in dignity had been met with constant

threats, intimidation and violence. There had been forced disappearances, such as that of Lorenzo Quej Pu from the displaced persons settlement "Mario Antonia Diaz"; he had been abducted on 12 January 1994 and his whereabouts were still unknown. There had also been murders, including that of Pedro Perén Mux on 3 December 1994. No attempt had been made to find the people responsible for those crimes.

62. Thousands of Guatemalans had sought refuge in southern Mexico, and his organization had been working to ensure that they could return to their homes in safety and dignity, without a military presence in their communities, and without being forced to form so-called civil self-defence patrols. Orderly return had, however, been put on hold owing to the lack of political will on the part of the Government to resolve the problem of land ownership. His organization endorsed the recommendations of the Independent Expert on Guatemala, which stressed the need to honour the undertakings made in the 8 October 1992 agreements, and to ensure the safety of those returning and provide them with adequate health care and education. His organization urged the Commission to consider the situation in Guatemala under agenda item 12 and appoint Mrs. Pinto as Special Rapporteur.

63. Another matter of grave concern to his organization was the forced relocation of members of the Dineh (Navajo) people in parts of Arizona in the United States. Families had been forced to leave their land and to live in cities or on contaminated land by government-ordered culling operations, harassment by law-enforcement officials and private security forces, and the environmental effects of mining operations. The resettlement operations in the areas concerned constituted the largest forced relocation of an indigenous people in the United States in the present century; he urged the Commission to approve Sub-Commission resolution 1994/44, which recommended that the situation be kept under constant observation.

64. Turning to the situation of the indigenous peoples of Hawaii, he recalled that their legitimate Government had been illegally overthrown by the United States in 1893 in violation of a bilateral treaty which had been ratified by both countries. Since then, Hawaiians had been harassed and displaced in their own country and the land stolen from them had never been returned. Although the United States Congress had officially apologized in 1993 for overthrowing the Hawaiian Government, no move had yet been made to restore the sovereignty of the Hawaiian people over their own country, a process which in the view of the Council should begin without further delay.

65. With regard to recent events in the Mexican State of Chiapas, he noted that large numbers of indigenous people, and on occasions entire communities, had been displaced as the army had stepped up its operations. Local officials had exploited the troubles in order to confiscate land which peasant farmers had been forced to abandon. His delegation was also deeply concerned at the plight of indigenous peoples displaced as a result of conflicts between Governments, such as the Shuar-Achuar people who had been driven from their homes in the recent war between Peru and Ecuador. The Council appealed to both Governments to maintain the cease-fire and assist in the process of returning the displaced persons to their homes. It was a deplorable fact that people, once displaced, were seldom allowed to return to their own land,

which often remained under permanent occupation, and the damage done to the land and property of indigenous peoples during armed conflicts was seldom made good by the Governments involved once the conflict was over.

66. The problem of displacement as it affected many indigenous peoples throughout the world was an immense and intractable one, and his delegation hoped that the Representative of the Secretary-General on displaced persons would make it a central part of his mandate.

67. Mr. DEL CASTILLO (Christian Democrat International) said millions of people throughout the world were forced to seek refuge in countries other than their own in order to escape the effects of war or persecution. The problem was thus a global one, affecting both rich and poor countries, and many countries, such as Zaire and Burundi, were both sources of refugees and hosts for people seeking refuge from neighbouring States.

68. Taking the example of Rwanda, he noted that the terrible slaughter and ensuing exodus of refugees from that country had been sparked off by the genocidal persecution of the Tutsi under the Habyarimana regime; that in turn had led to reprisals against the Hutu population once the FPR Government had come to power. The root cause of the mutual slaughter had been the hatred, contempt for human dignity, intolerance and social injustice which generally lay behind human rights abuses in other parts of the world.

69. In the Caribbean, the main cause of the tide of refugees from Cuba and Haiti had been the one-party systems, lack of democracy, poverty and general social injustice which prevailed in those countries. Thousands of desperate refugees had preferred to take their chances on the open sea rather than continue to live in unacceptable conditions. Most had been saved by the United States Coastguard, which, however, had been motivated less by humanitarian concerns than by the desire to prevent the refugees from landing on American territory, continuing a policy established by successive United States administrations during the 1980s.

70. Most of those refugees had been held against their will at the Guantanamo naval base. Following the return of President Aristide, the United States authorities had begun the indiscriminate repatriation of thousands of Haitians held at the base, although many of those thus repatriated faced the real threat of persecution on their return. The action would therefore appear to have been in violation of article 33, paragraph 1, of the Convention relating to the Status of Refugees. Many of the people responsible for grave human rights violations during the first months of President Aristide's rule had returned to Haiti; at the same time, many of the police, military and tontons macoutes responsible for killing and torturing innocent people when General Cedras had been in power were still in the country, still armed and apparently enjoying immunity. The plight of 300 Haitian children held at Guantanamo was particularly tragic. Without parents or guardians, they could not enter the United States and could hardly be said to enjoy conditions conducive to their physical, mental, moral, spiritual and social development, as stipulated in Principle 2 of the Declaration of the Rights of the Child.

71. Christian Democrat International was also concerned at the United States Government's decision not to allow new refugees to land on American territory

and to detain indefinitely those who attempted to do so. Detention without limit could be regarded as a violation of articles 3 and 9 of the Universal Declaration of Human Rights, even if that place of detention was called a secure refuge. He noted that only a small number of humanitarian visas had been granted in particular cases, and several thousand Cuban refugees continued to be held in the United States after serving prison sentences for offences committed in that country.

72. There was a regrettable tendency to blame refugees for the expense involved in caring for them or to criticize them for taking jobs in host countries already hit by recession and unemployment. And refugees were frequently the victims of murderous racist attacks. It would be unjust to blame the rich countries for the actions of extremist minorities, and they were not alone in expelling refugees, but Western democracies which sent back people seeking refuge and protection while at the same time supplying weapons to the inhuman regimes which had created the problem were clearly not acting in the best interests of their own citizens. The only possible remedy lay in sincere and concerted cooperation based on the conviction that human rights, democracy and development were intimately linked and that failure to nurture them could only result in unending conflict.

73. Ms. BRUNET (International Centre for Human Rights and Democratic Development) welcomed the first report by the Special Rapporteur on violence against women, which explicitly acknowledged the fact that such violence had been a major factor in preventing full attainment of human rights objectives, and that problems of gender inequality and violence against women were now more widely recognized in the international community. However, that recognition had yet to be translated into specific action, and more needed to be done within the Commission's various thematic mechanisms to identify and analyse incidents of violence against women in the light of the relevant international instruments.

74. With regard to the specific area of freedom of expression, she wished to draw the Commission's attention to an incident which had occurred at the meeting in Amman in preparation for the Fourth World Conference on Women, when the Special Rapporteur, addressing the meeting on key issues which she felt should be included in the final statement, had been interrupted by the Chairperson and asked to submit further comments in writing. In the view of her organization, such a curtailment of the freedom of a United Nations representative to address a United Nations-sponsored meeting was highly inappropriate and the United Nations had singularly failed on that occasion to promote freedom of expression for one of its own representatives.

75. Concern had been expressed on a number of occasions at the adverse effect of reservations entered by States when ratifying or acceding to international human rights instruments. The largest number of reservations had been entered in connection with the Convention on the Elimination of All Forms of Discrimination Against Women, and in many cases the wording of the reservations had been so broad as to be contrary to the purposes of that Convention. The large number of reservations and their often broad nature hampered the Committee on the Elimination of Discrimination against Women in its ability to fulfil its mandate, which, according to its General Recommendation No. 19, included the examination of cases of gender-based

violence. The Centre therefore called on the Commission, in the appropriate resolutions, to adopt provisions requiring States to withdraw their reservations, or substantially limit their scope. Furthermore, the Centre believed that women's rights would be most effectively implemented through the adoption of an optional protocol to the Convention, which should include provisions for the individual and collective right to petition, and for an inquiry procedure.

76. In the year which marked the fiftieth anniversary of the United Nations, it would be highly appropriate to consider more closely the situation of women within the United Nations system. Despite its efforts to promote women's rights globally, the United Nations system appeared to be riddled with sexism and sexual misconduct. The relevant United Nations bodies needed to review regularly and systematically the situation of their own women staff and to apply the Organization's own human rights standards in that area. The various forms of sexual harassment of women within the Organization could no longer be tolerated. As the Special Rapporteur on violence against women had made clear, the United Nations system must be above reproach in such matters. She urged all the appropriate United Nations bodies to cooperate with the Special Rapporteur in her efforts to address those areas of concern.

77. Lastly, her organization reaffirmed its commitment to assisting the Special Rapporteur in all her work, while reminding the Commission that greater resources would be needed if the Special Rapporteur was to continue to operate effectively.

78. Mr. DAHL (Inuit Circumpolar Conference) said that it was particularly important during the International Decade of Indigenous Peoples to achieve advances in the promotion of human rights and fundamental freedoms for indigenous people on a universal basis. A major step forward would be the adoption by the United Nations of the Draft Declaration on the Rights of Indigenous Peoples, which, with its recognition of the right to self-determination, might help to end centuries of discrimination by the international system. Representatives of indigenous peoples should be able to participate actively in the Working Group responsible for examining the Draft Declaration. Progress in the field of human rights depended on open-mindedness and a belief in the value of dialogue. For the same reason, a permanent forum for indigenous people needed to be established during the Decade, and a workshop set up at the earliest opportunity with the task of formulating specific proposals.

79. The Inuit nation of Canada included Inuit living in all parts of the Canadian Arctic, including their traditional territory in northern Quebec known as Nunavik. The Inuit were a distinct people with their own language, culture, history and values. The right of Inuit to self-determination included the right to determine their political future in Canada and that of Nunavik if the population of Quebec should vote for separation from Canada. The Inuit did not constitute a threat to Canada's territorial integrity. That threat lay in the desire of the current provincial government of Quebec to separate completely from Canada. The Inuit urged the international community to refrain from endorsing or encouraging precedents that would ultimately lead to the disintegration of Canada. Where efforts were being made to dismember a State by a constituent part of the State dominated by non-indigenous people,

the fundamental human rights of the indigenous peoples affected should be respected, including the equal right of such peoples to self-determination and to hold referendums on their future.

80. Canada had stated that Quebec could separate from Canada without the consent of indigenous peoples in Quebec and had announced that it would not respect the result of referendums held by indigenous peoples on that question. Cree and Inuit living in that portion of Quebec north of the fifty-fifth parallel constituted the majority population in their respective territories and in northern Quebec as a whole. The Cree nation in Quebec and the Inuit nation of Canada had each resolved to hold their own democratic referendums to determine their political future and the right of Cree and Inuit in Quebec to remain in Canada. Therefore, in the event of a decision by the provincial government of Quebec to become independent of Canada, the results of democratic referendums held by indigenous peoples on their political future and the future of their territory should be accepted and respected by all States Members of the United Nations.

81. Ms. BUNCH (International Women's Tribune Centre), also speaking on behalf of four other organizations, said that the global campaign for women's rights had played a key role in preparations at the local, national, regional and international levels for the World Conference on Human Rights, held in Vienna in 1993, and in defining violence against women as a human rights abuse. The Vienna Declaration had acknowledged the need for efforts to eliminate violence against women in public and private life, sexual harassment, exploitation, gender bias in the administration of justice, and conflict between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism.

82. One of the commitments made at the World Conference had been successfully translated into action with the appointment of the Special Rapporteur on violence against women. However, beyond that appointment no significant progress had been made towards the integration of women's human rights concerns, or of women, into the United Nations human rights system. Two years after the World Conference, there were still only three women heads of delegations of the 53 States making up the Commission on Human Rights, for example. At that rate, it was difficult to see how the Commission could come close to meeting the Secretary-General's call for the equal representation of men and women in decision-making positions by the year 2000. The Commission should recommend that priority consideration be given to the appointment of women to all human rights bodies.

83. If women's rights were to form an integral part of United Nations human rights activities, attention should be given to the integration of women and gender-specific issues in the work of all rapporteurs, treaty bodies and working groups. An in-depth examination of how human rights violations manifested themselves in women's lives was essential. Secondly, the examination of economic, social and cultural rights should include the sexual discrimination inherent in the disproportionate number of girls suffering from malnutrition and their unequal access to education, employment and health care. Thirdly, racial discrimination also had gender-specific manifestations

such as ethnic rape and forced pregnancy in times of war and conflict, issues which should be central to the work of the international tribunal recently set up in The Hague if it were to fulfil its mandate.

84. Ms. FACIO (Third World Movement Against the Exploitation of Women), also speaking on behalf of four other organizations, said that in preparation for the World Conference on Human Rights, half a million people from 124 countries had signed a petition to the Conference calling on the United Nations to address the massive violations of women's human rights globally. Since then, women around the world had gathered tens of thousands of signatures requesting that the United Nations should fulfil the commitments it had made in the Vienna Declaration. Specifically, there had been requests for the Centre for Human Rights to prepare a report on the steps taken and plans made to promote and protect women's human rights as part of the discussion of areas of concern at the Fourth World Conference on Women.

85. The Commission on Human Rights should be represented at the Beijing Conference if it were to succeed in increasing cooperation between the human rights system and women's units in the United Nations. She welcomed the recommendation made by the Special Rapporteur on questions of torture that the Commission should send to Beijing other special rapporteurs and representatives from the Commission's working groups and treaty bodies to develop concrete plans and guidelines for the integration of women's rights and gender perspectives into their mandates. The Commission should also submit to the Conference the general recommendations of the Special Rapporteur on violence against women and urge the Conference fully to include those recommendations in its final document.

86. There was also a need systematically to address violations of women's rights that were routinely overlooked, including the rights of groups such as the disabled, indigenous populations, lesbians, prostitutes, prisoners, women in conflict situations, women who belonged to ethnic, racial or religious minorities, and women with HIV or AIDS.

87. The United Nations Decade for Human Rights Education, which was beginning in 1995, provided a unique opportunity for the Centre for Human Rights and Members of the United Nations to integrate gender concerns and perspectives from the outset of its activities. Finally, the Commission should ensure that adequate resources were available to advance its goals related to the integration of women's human rights, and to provide funding for the rapporteurs and other human rights experts so that they could play an effective part in the Beijing Conference.

88. Mr. GRAVES (International Association Against Torture) said that his organization greatly appreciated the efforts and valuable work of the Representative of the Secretary-General on internally displaced persons, Mr. Francis Deng. The mass movements of people in the south of Iraq had been well documented in United Nations resolutions and reports. The first phase of what was known as the "Anfal 3" military programme had included the displacement of the populations of almost 50,000 Kurdish villages in the north of the country. The Kurds had eventually been relocated in camps far from their original homes. In 1989, the "Anfal 3" programme had been extended to

the southern marshlands of Iraq, where 400,000 Arab Shiites had been living. After the uprising against the regime in March 1991, many other Iraqis had sought refuge in the marshlands area.

89. In November 1991, the Government of Iraq had launched a military action against the population in the southern region on the pretext that it included enemies of the State. In 1992, the Government had begun its programme of draining the marshlands, covering an area of 11,000 square kilometres, and continued its military operations in the region. Some 200,000 people had fled across the border into the Islamic Republic of Iran where they had been, and continued to be, housed in 20 refugee camps. Approximately 50,000 people remained in the marshlands but they were still trying to escape from the military forces and seek refuge wherever there was water. Since July 1994, thousands of persons, mainly women and children, had fled to the border areas where they were living in desperate conditions. Under phase two of the "Anfal 3" programme, the Government of Iraq had begun to place the remaining inhabitants of the marshlands in concentration camps. There were reports that many women and children had been transported from the region to unknown locations in the west of Iraq.

90. The Commission should intervene in that dramatic situation and call upon the Government of Iraq to cease its military operations and the draining of the marshlands, and to allow the reintegration of the people in their original cultures. The Commission should also request that the Representative of the Secretary-General should make a special report on internally displaced persons in Iraq, and the United Nations and other international humanitarian agencies should provide immediate assistance to the tens of thousands of persons suffering in the frontier region. Finally, the Commission should ask the Secretary-General to call for the opening of all parts of the marshlands for inspection and fact-finding.

91. With regard to another situation involving the tragic displacement of populations, he introduced Mr. Pandita, General Secretary of the organization "Friends of Kashmir", who would make a statement.

92. Mr. PANDITA (Friends of Kashmir) said that the political dimension of internal displacements was of the utmost importance. In several countries, ethnic and religious cleansing was the main cause of such population movements. A frequent cause of internal displacement was the interference of agents external to the country, whose activities were motivated by political strategies, as in the Indian part of Kashmir. At present in Kashmir, as a result of externally-sponsored armed insurgency, an armed struggle had been unleashed for the establishment of a purified theocratic State in place of the existing secular and democratic system. More than 400,000 people belonging primarily to a religious minority, but also including activists of traditional political parties, had been forced from their homes. At the same time, many peace-loving people continued to be held in a state of siege.

93. The Commission should condemn the practice whereby agencies external to Kashmir provided sophisticated arms and logistical support to persons acting in unison with foreign mercenaries. Condemnation of the situation would fully reflect the spirit of the draft resolution on item 9 of the Commission's agenda (E/CN.4/1995/L.12).

94. Ms. IQBAL (Pakistan), speaking in exercise of the right of reply, said that the diatribe against Pakistan by the so-called Indian Institute of Non-Aligned Studies was totally unjustified. With regard to the situation in Kashmir, Pakistan condemned terrorism, and particularly terrorism waged by States. However, when people were subject to foreign occupation, when their homes were invaded, their sons shot and their women dishonoured, those people had the right to take up arms in self-defence. If the Kashmiris were considered terrorists, the same could be said of all those people who had struggled against colonialism and won their freedom, as had happened in many of the States represented in the Commission on Human Rights.

95. Terrorism was the use of indiscriminate force against innocent people. On the basis of that criterion, India was the largest terrorist State in the world. Indian security forces had waged their own campaign of State terrorism in Kashmir, a campaign which had included reprisal killings, the burning of villages and execution of suspects without trial. There had been numerous reports of torture and disappearances leading to the deaths of hundreds of civilians. Terrorist acts had also included the case of Indian forces entering a Kashmiri home and shooting an 11-year-old girl, and an attack on a chemistry student who had been shot several times but survived. India's State terrorism in Jammu and Kashmir had created thousands of refugees, most of whom had fled to Pakistan. There would have been many more refugees if India had not wired and mined almost the entire length of the Line of Control in Kashmir. The war in Kashmir was India's own "dirty little war". Pakistan was not an actor in that war. It too was a victim. Pakistani civilians had been killed by Indians firing across the Line of Control and Pakistan was obliged to care for the Kashmiri refugees.

96. The Indian speaker had also referred to the plight of the Kashmiri Pandits. There had been reports in April 1994 that Pandit migrants had complained that the Government of India had been using them for propaganda purposes. In February 1990, members of the Pandit community had been warned to migrate to safer places because the Government had plans to kill many Kashmiri Muslims, particularly young persons, in order to suppress the uprising against India. The Pandit community understood that it had been used as a scapegoat in a very crude campaign to paint the mass uprising against India as nothing more than a communal flare-up.

97. The diatribe of the Indian speaker was merely a futile effort to divert the world's attention from the atrocities being committed in Kashmir by the Government of India. That also applied to the allegations made by Mr. Pandita, who had been inducted into the list of speakers by the International Association Against Torture. The Government of India should allow impartial observers to enter Indian-occupied Kashmir and see the situation for themselves.

98. Mr. SALMAN (Observer for Iraq), speaking in exercise of the right of reply, said that the statement made by the International Association Against Torture had contained numerous lies and inaccuracies. It had been alleged that many Kurds had fled from the north of Iraq. However, it should be borne in mind that the north of Iraq had been the scene of intensive military

operations during the war between Iraq and Iran and the Gulf war. It was common knowledge that the north of Iraq, which was under international protection, was a region of safety for the Kurdish population.

99. With regard to the southern marshlands of Iraq, the area provided a traditional place of refuge for killers and fugitives and a base from which terrorist attacks were carried out against Iraq. The aim of such activities was to ensure that there was a permanent situation of insecurity and instability for political reasons. Any alleged violations of human rights or mass displacements were groundless. Emigration was prompted by economic and social factors, and the adverse consequences of sanctions against Iraq.

100. With regard to the draining of the marshlands, the project was designed to develop and improve agricultural land. It had been launched in the 1950s, and had been planned and implemented by United States, British, Russian and German companies. The need to develop agricultural land had been heightened by the economic sanctions against Iraq.

101. Mr. ALI RAO (India), speaking in exercise of the right of reply, said that Pakistan's diatribe against India was an excuse behind which it sought to hide its own black record in Kashmir. Jammu and Kashmir, like the rest of India, was a multi-religious and multi-ethnic society where Hindus, Muslims, Buddhists, Sikhs and Christians had traditionally lived together in harmony until Pakistan had introduced religious-based separatism by sponsoring terrorism. Its aims were to destroy the foundations of the secular society. Pakistan represented a source of religious intolerance, religious extremism and religious-based terrorism in an integral part of India, perpetrated in pursuit of its territorial designs.

102. Mr. AKRAM (Pakistan), speaking in exercise of the right of reply, said that thousands of Muslims were murdered in India every year. For example, on 6 December 1992, fanatical Hindu mobs had destroyed the Babri Mosque in Ayodhya and marked 3,000 houses belonging to Muslims whom they intended to kill and did kill. Similarly, in Bombay in January 1993, fanatics had called for the killing of Muslims. The police had joined in the slaughter of Muslims and 300,000 Muslims had been displaced.

103. With regard to Kashmir, 90 per cent of the population were Muslims. In accordance with the plan of partition, Kashmir should have been part of Pakistan. However, India had used military force to occupy Kashmir. The people of Kashmir wanted to determine their own future, which they should be allowed to do, and India should withdraw its army from the region.

104. Mr. ALI RAO (India), again speaking in exercise of the right of reply, said that following the Babri incident 720 Hindu temples in Pakistan had been destroyed. Religious intolerance in Pakistan had become State policy, and religious minorities were treated as second or third-class citizens. The Human Rights Commission of Pakistan had itself documented the daily horrors facing minorities in Pakistan. In its 1994 report, it had stated that Pakistan's blasphemy law had led to at least two public killings. There had been cases of the seizure of church land, kidnapping of young Hindu girls, discrimination with regard to the remuneration of women, and sexual harassment at the workplace; there was reported to be one rape every three hours.

105. Mr. AKRAM (Pakistan), again speaking in exercise of the right of reply, said that the Hindu temples had been destroyed as an act of vengeance following the outrage at the Babri Mosque. However, each and every temple had been rebuilt at the expense of the Government of Pakistan. It would be interesting to know whether the Government of India had rebuilt the Babri Mosque in Ayodhya. It seemed that it had not and that a Hindu temple had been constructed in its place. Pakistan was a free country and the national Human Rights Commission had every right to criticize the Government of Pakistan.

106. Pakistan's blasphemy laws may indeed have led to the killing of two people by fanatics. However, it should be remembered that 3,000 Muslims had been killed in Ayodhya and 5,000 in Bombay, and nothing had been done about it. With regard to rape, there were reports that hundreds of women had been raped by Indian troops in Kashmir. The representative of India therefore had no cause to claim the moral high ground.

The meeting rose at 10.10 p.m.